BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

ROWANA RIGGS)
Claimant)
VS.)
	Docket No. 223,954
THE BOEING COMPANY)
Respondent)
AND)
)
AMERICAN MANUFACTURERS MUTUAL INS. CO.)
Insurance Carrier)

ORDER

This case comes before the Board on the application of claimant's former counsel to set aside the Board's Order of January 25, 2000. The Board's Order remanded this case to the Administrative Law Judge for further proceedings to determine an appropriate attorney fee. Counsel contends the appeal was out of time and consequently the Board did not have jurisdiction to enter its Order.

In the course of the trial of this case, claimant terminated the services of her counsel and completed the case pro se. After the claimant was awarded benefits, counsel applied for attorney fees. The Administrative Law Judge entered an Order for attorney fees on October 22, 1999. Claimant, again appearing pro se, appealed the Order for attorney fees but did not file the appeal until November 23, 1999, more than ten days after the ALJ's Order. K.S.A. 44-551 allows ten days for the filing of an appeal. The fact that the appeal was untimely was not raised at the time the appeal was before the Board and was not noted by the Board. The Board entered its Order on the appeal January 25, 2000. On January 27, 2000, counsel filed the current motion, labeling it a motion for reconsideration.

After reviewing the pleadings and considering the arguments, the Board concludes the motion should be granted. The appeal was filed beyond the ten days and, as a consequence, the Board was without authority to consider the appeal. The circumstances here differ from motions to reconsider where the movant asks the Board to modify its ruling on the merits. There is no procedure for such a motion to reconsider and those motions have consistently been dismissed by the Board. But in this case, the Board's Order of January 25, 2000, was, and is, void.

IT IS SO ORDERED.

WHEREFORE, the Appeals Board finds and concludes claimant's appeal from the attorney fee Order of October 22, 1999, should be, and the same is hereby, dismissed. The Board's Order of January 25, 2000, is set aside as void.

Dated this day of Ma	arch 2000.
	BOARD MEMBER
	BOARD MEMBER

BOARD MEMBER

c: Rowana Riggs, Pro Se Joseph Seiwert, Wichita, KS John D. Clark, Administrative Law Judge Philip S. Harness, Director